

REMARKS

The Official Action of July 10, 2003, and the prior art relied upon therein have been carefully reviewed. The claims in the application are now claims 1, 2, 4, 5, and 7-14, and these claims define patentable subject matter warranting their allowance. Accordingly, the applicants respectfully request favorable reconsideration and allowance.

Applicants appreciate that the examiner has helpfully pointed out the possibility of claiming priority from an earlier filed foreign application. Applicants do indeed have an earlier filed foreign application, namely Japanese patent application 2001-37736 filed February 14, 2001. Applicants are **not** claiming priority from this earlier filed Japanese application.

The PTO has objected to the title of the present application and has helpfully suggested a revised title. The suggested title has been substantially adopted by Amendment presented above.

The PTO has objected to applicants' Abstract of the Disclosure, but applicants are uncertain as to the reasons for such an objection. A review by applicants of the original Abstract does not reveal anything which is inconsistent with the regulations or is in any way improper. It contains no

improper language. Nevertheless, in deference to the examiner's views, a new declaration is presented herewith. Its approval and entry are respectfully requested.

The Office Action contains an objection as to the form of applicants' claims. In deference to the examiner's views, the claim format has been taken into account in presenting amendments to the claims above. Included in such amendments are the singularization of "particles" to "particle" where appropriate, and the presentation of different features of the claims as separate paragraphs.

These amendments are entirely cosmetic and non-narrowing. No limitations have been added in this regard and none are intended.

In addition, some other amendments have been introduced into claim 1, and claims 3 and 6 have been deleted. Applicants believe that "a particle heating means positioned between said particle classification chamber and said particle collecting chamber, wherein said particle heating means heats the high-purity standard particles classified at said particle classification chamber by infrared radiation at a downstream of said particles classification chamber, makes spherical the high-purity standard particles having various shapes through cohesion, and improves the crystallization of the high-purity

standard particles" included in claim 1 are not disclosed in the references cited the Official Action.

New claims 7-14 have been added. Claims 7 and 8 depend from and incorporate the subject matter of claim 1, and therefore are patentable for the same reasons as claim 1, as pointed out in more detail below.

New claims 9-14 call for the corresponding method which generally parallels the apparatus, and these claims also define novel and unobvious subject matter under Sections 102 and 103 for the same reasons as the other claims.

Claims 1, 5 and 6 have been rejected under Section 102 as anticipated by Aya et al JP '222 ("Aya"). This rejection is respectfully traversed.

Applicants note that claim 3 has not been rejected under §102 on the basis of Aya. Claim 3 has now been incorporated into claim 1, so applicants understand that this rejection need not be further addressed at this time.

Applicants submit that the present invention is quite different from Aya. It is true that Aya teaches an apparatus for producing high-purity particles comprising: a generation chamber (101), a classification chamber (102) and a collecting chamber (103) with an orifice that reduces the piping cross section. However, Aya does not disclose the feature of "a particle heating means positioned between said

particle classification chamber and said particle collecting chamber; wherein said particle heating means heats the high-purity standard particles classified at said particle classification chamber by infrared radiation at a down-stream of said particles classification chamber, makes spherical the high-purity standard particles having various shapes through cohesion, and improved the crystallization of the high-purity standard particles" included in claim 1.

Aya neither describes a device or technique relating to a particle heating means nor suggests a usage thereof. Therefore, Aya cannot make spherical the high-purity standard particles having various shapes through cohesion as claimed. And Aya cannot improve the crystallization of high-purity standard particles.

Confirmation from the PTO that this rejection is not applicable is respectfully requested.

Claims 1, 2, 5 and 6 have been rejected under §102 as anticipated by Seto et al EP '438 (Seto). This rejection is respectfully traversed.

Again, claim 3 has not been rejected as anticipated by Seto. The subject matter of claim 3 now having been incorporated into claim 1, it is clear that this rejection need not be further addressed at the present time.

Nevertheless, the applicants respectfully note that a characteristic of the present invention is to provide a high-purity standard particles production apparatus as specified in claims. In this construction of the present invention, the feature of a particle heating means positioned between said particle classification chamber and said particle collecting chamber, wherein said particle heating means heats the high-purity standard particles classified at said particle classification chamber by infrared radiation at a down-stream of said particles classification chamber, makes spherical the high-purity standard particles having various shapes through cohesion, and improves the crystallization of the high-purity standard particles is important.

Confirmation from the PTO that this rejection is not applicable would be appreciated.

Claim 3 has been rejected as obvious under §103 from Seto in view of Sajoto et al USP 6,527,865 (Sajoto). This rejection is respectfully traversed.

Seto has been described above, and its deficiencies with respect to claim 3, now incorporated into claim 1, appear to be recognized. However, the rejection asserts that it would have been obvious to a person having ordinary skill in the art to modify the invention of Seto, which already

contains a heater, with an infrared radiation heating means that is well-known in the art as shown in Sajoto.

However, the heating means called for in claim 1 is quite different from anything disclosed in Sajoto. Therefore, even if the proposed combination were obvious, the subject matter of applicants' claims would not be reached.

Applicants believe that the differences between the present invention and any proposed or possible combination of Seto and Sajoto should be clear. Sajoto relates to a gas feedthrough used for controlling temperature of gas. On the other hand, the particle heating means of the present invention is provided for efficiently heating the high-purity standard particles, and therefore its location is important. Thus, the particle heating means of the present invention heats the high-purity standard particles classified at the particle classification chamber, that is to say all the particles generated in the particle generating chamber are not heated. Therefore, it should be recognized that the object and result of the heating means of the present invention are quite different from that of Sajoto.

Withdrawal of the rejection is in order and is respectfully requested.

Claim 4 has been rejected as obvious under §103 from Aya or Seto in view of Hohla et al USP '034 (Hohla) or Wieser

et al USP '222 (Wieser). These four (4) rejections are respectfully traversed.

Claim 4 depends from and thus incorporates the subject matter of claim 1. Therefore, even if the proposed combinations were obvious, they would not reach the subject matter of claim 4 for the reasons pointed out above, bearing in mind that neither Hohla nor Wieser make up for the deficiencies pointed out above with respect to claim 1, nor have they been cited to do so.

Withdrawal of the rejection is in order and is respectfully requested.

The prior art documents made of record and not relied upon have been noted, along with the implication that such documents are deemed by the PTO to be insufficiently pertinent to warrant their application against any of applicants' claims.

Favorable reconsideration and allowance are earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicants

By



Sheridan Neimark  
Registration No. 20,520